



FREDERICK COUNTY PLANNING COMMISSION

January 14, 2015

TITLE: Conservation Hill, Section 2, Lots 202-205

FILE NUMBER: M-2895, AP 14683 (APFO N/A, FRO 14684-14687)

REQUEST: **Agricultural Cluster Concept Plan Approval**
The Applicant is requesting Concept Plan approval for a 4-lot Agricultural Cluster subdivision on a 192.58-acre property.

PROJECT INFORMATION:

ADDRESS/LOCATION: Located on the south side of Poole Road, 1,500 feet west of Holter Road

TAX MAP/PARCEL: Map 75, Parcel 12

COMP. PLAN: Agricultural/Rural

ZONING: Agricultural

PLANNING REGION: Brunswick

WATER/SEWER: No Planned Service

APPLICANT/REPRESENTATIVES:

APPLICANT: Mary Gordon Life Estate Et. Al. (C/o Walter Gordon)

OWNER: Mary Gordon Life Estate Et. Al.

SURVEYOR/ENGINEER: J.F. Brown III & Assoc.

ARCHITECT: N/A

ATTORNEY: N/A

STAFF: Mike Wilkins, Principal Planner II

RECOMMENDATION: Conditional Approval

ATTACHMENTS:

EXHIBIT 1- Concept Plan

STAFF REPORT

ISSUE

The Applicant is requesting Concept Plan approval for a 4-lot Agricultural Cluster subdivision on a 192.58-acre property.

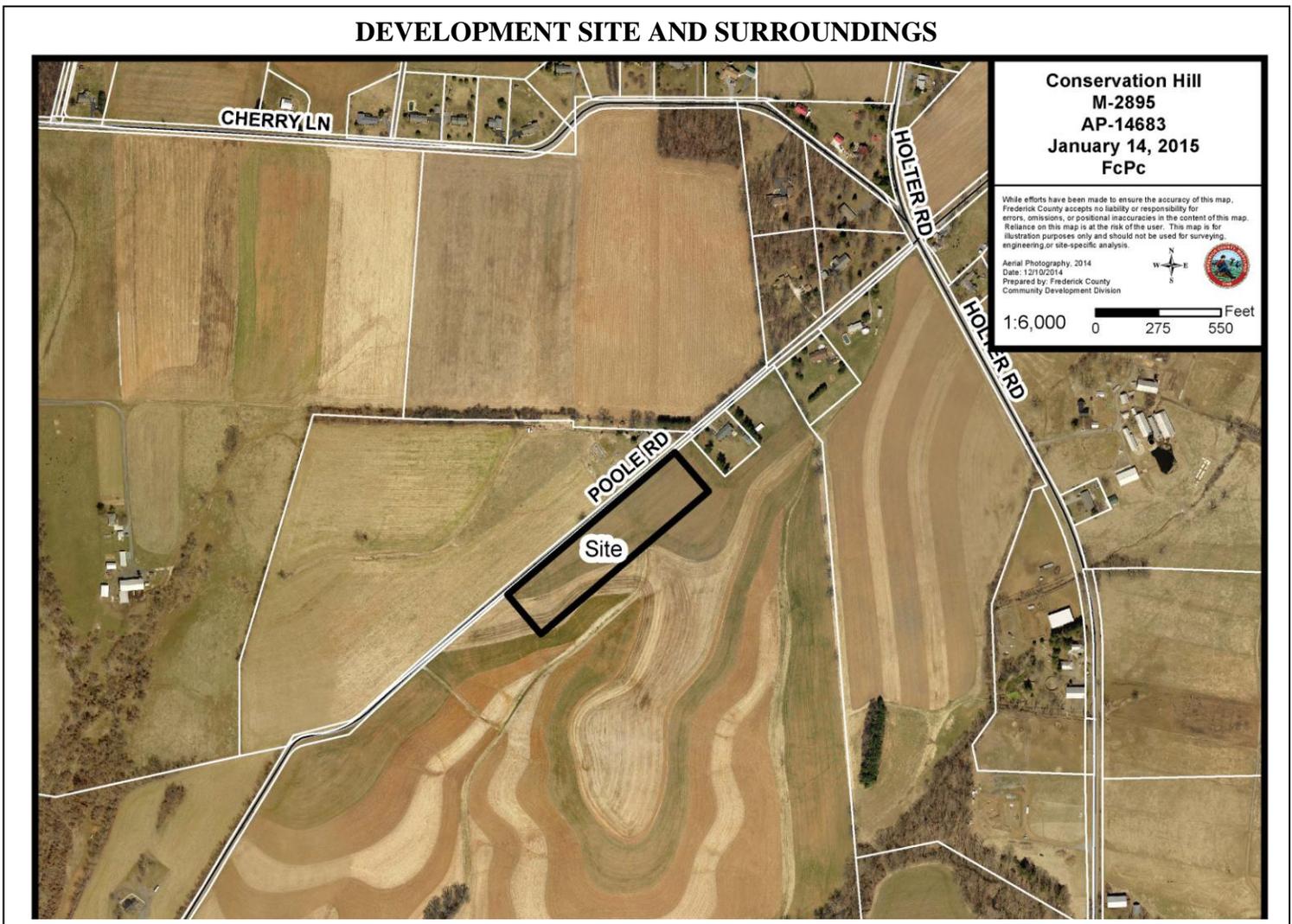
BACKGROUND

This parcel has been the subject of one previous subdivision application;

- In 1972, one lot was recorded (the Susan & Michael Kelly lot adjoining proposed lot 202).

Proposed lots 202-205 will create the 2nd through 5th lots off the parcel since 1965 and is therefore a minor subdivision. Any further subdivision of the parcel will be considered a major subdivision.

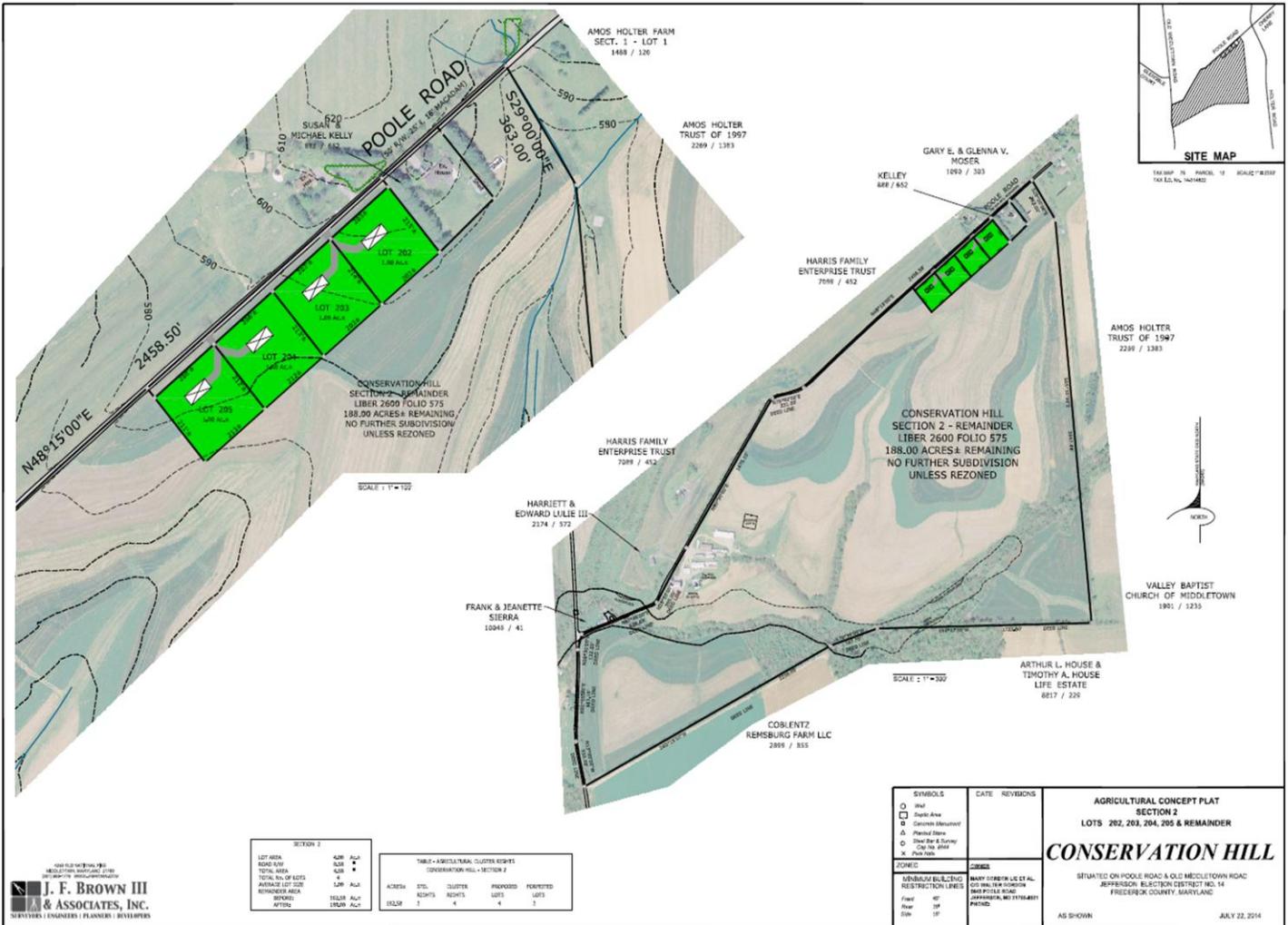
This property is under a MALPF easement and within a Priority Preservation Area. Four 1 acre lots may be subdivided for family members in accordance with the easement covenants. A preliminary easement release must be approved by the state prior to lot recordation. A Final release must be approved by the state at the time of building permit application. In the event a building permit is not applied for within 3 years of lot recordation, the state may revoke the preliminary release approval.



Existing Site Characteristics

The property consists of a single parcel containing 192.58 acres. The entire parcel is utilized for farming, including the 4.00 acres proposed to be subdivided into lots.

Concept Plan Layout



ANALYSIS

1. § 1-19-7.300. AGRICULTURAL DISTRICT.

§1-19-7.300(B): *The minimum lot size for single-family dwellings will be 40,000 square feet...*

§1-19-7.300(C)(2)(c): *Clustering Requirements. Minimum lot size, width and yard areas shall be as specified in the Agricultural District. Lot size shall average not more than 1.5 acres in size with no lots exceeding 2 acres. The Planning Commission shall have the authority to grant modifications to lot sizes based on percolation and other Health Department requirements.*

All of the proposed lots meet the minimum 40,000 sq ft lot size requirement. The proposed minimum lot width (100 feet) and yard areas (40 foot front yard, 30 foot rear yard, and 10 foot side yard) meet Agricultural District requirements in accordance with §1-19-6.100 Design Requirements of the Zoning Ordinance. Each lot is 1.00 acres in size in accordance with the MALPF easement covenants. The 1.00 acre average lot size meets the lot size criteria under §1-19-7.300(C)(2)(c) of the Zoning Ordinance.

§1-19-7.300(C)(2)(d): *A minor subdivision of 3 lots will be permitted to be subdivided on an original tract of land 25 acres or less...On an original tract of land containing more than 25 acres, the Planning Commission may allow 1 lot in addition to those allowed on lesser tracts for each additional 50 acres or part thereof above the first 25 acres...*

This parcel consists of 192.58 acres. Under the cluster provisions, up to 7 lots could be subdivided off the property (3 base + 4 bonus lots= 7). However, under the terms of the MALPF easement, no more than 4 lots may be subdivided. Therefore the remaining potential of 3 lots is forfeited.

§1-19-7.300(C)(1): *Clustering: Purpose and intent.*

(a) *To encourage the conservation of farmland in the Agricultural Zoning District by planning the residential development allowed in the zone to provide for the best obtainable siting, access and location of lots on a tract.*

(b) *To provide for a well-planned development while minimizing the use of prime agricultural land.*

§1-19-7.300(C)(3): *Procedures:*

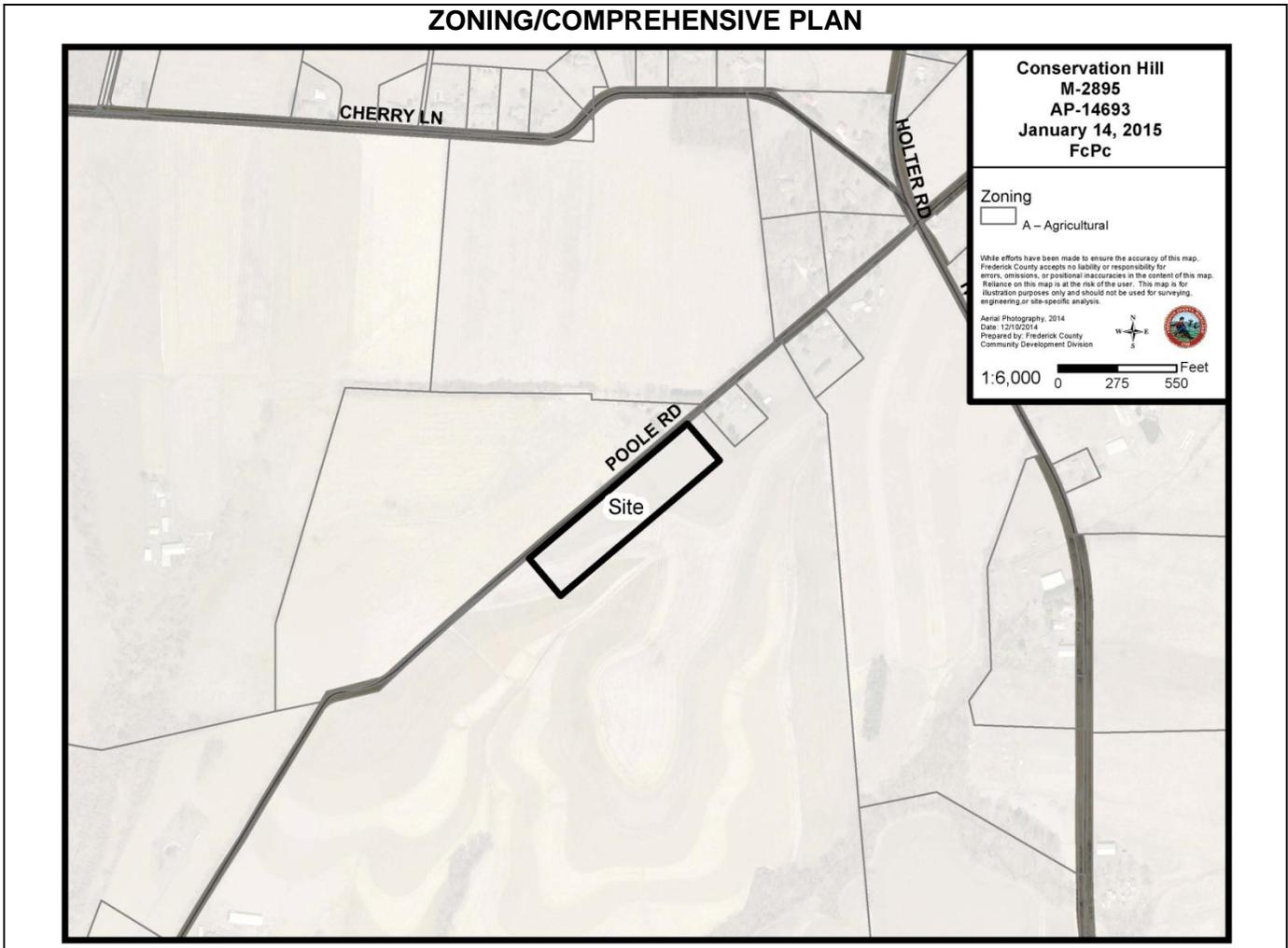
(b) *The Planning Commission will have final approval over the location and layout of the proposed clustering of lots. The Planning Commission shall consider the following when reviewing Concept Plans.*

1. *Soils. The cluster plan should minimize the use of the higher quality soils (class I, II and III as designated in the soils classification study) and maximize the use of steeper sloped areas, areas of poorer soils and areas which are otherwise less productive for agricultural uses.*

2. *Surrounding land use and zoning. The cluster plan shall consider the existing land uses and zoning in the vicinity. Generally, new lots which are adjacent to existing development or residential zoning are preferred to creating an isolated cluster of new houses.*

The proposed four-lot subdivision is situated in the northwest corner of the property, adjacent to the existing lot that was subdivided off the farm in 1972. The site of the proposed subdivision does not contain prime agricultural soils. The proposed subdivision location is adjacent to existing residential development.

Zoning Ordinance Requirements Findings/Conclusions: The proposed subdivision will meet all Zoning Ordinance requirements if the FcPc determines that the design meets the Ag Cluster provisions.



A. SUBDIVISION REGULATION REQUIREMENTS

- 1. Land Requirements §1-16-217 (A):** *The land use pattern of the Comprehensive Plan and the district regulations of the zoning ordinance shall form the basic theme of the design pattern of the proposed subdivision.*

The subject property has an Agricultural/Rural Comprehensive Plan land use designation (see map above). The proposed land use and subdivision design complies with the Comprehensive Plan and will meet Zoning Ordinance requirements if the FcPc determines that the design meets the Ag Cluster provisions.

- 2. Land Requirements §1-16-217 (B):** *The subdivision design shall take advantage of the uniqueness of the site reflected by topography, soils, the wooded areas, water bodies and the relationship to adjoining subdivisions and land uses, both proposed and existing.*

The site design takes advantage of the site topography, wooded areas, water bodies, and adjoining subdivisions, and land uses. The overall parcel contains an existing stream, FEMA floodplain, flooding and wet soils, as well as wetlands. However, the area of the proposed subdivision does not contain unique topography, prime agricultural soils, forest, or water bodies. The proposed subdivision is located next to the previously recorded and developed lot and avoids the existing environmental features.

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3. **Preliminary Plan, Required Information §1-16-72 (B)(19)(a & b):** *Soil types: (a) Soils type(s) information shall be provided and appropriate boundaries shown on the plan. In the event that "wet soils" are located on or within 100 feet of a proposed residential subdivision, a soils delineation report shall be prepared by a licensed soil scientist or professional engineer registered in the State of Maryland. The soils delineation report shall be submitted for review prior to Planning Commission approval of the plan. The Division may waive this requirement if the "wet soils" are located within open space areas.*

Wet soils (MmB) are located exactly 100 feet behind Lots 204 and 205. The proposed house sites are over 200 feet from the wet soils boundary. A soils delineation report is not required.

Road Access Requirements. Public Facilities §1-16-12 (B)(3)(a): *For minor subdivisions; A 16-foot travelway width shall be the normal minimum standard...".*

The proposed lots will access Poole Road, which is designated a local roadway on the Comprehensive Plan and has a 16 foot wide travelway. Although the existing travelway meets the criteria for a minor subdivision, the minimum right of way width of a local roadway is 50'. Therefore a right-of-way dedication is required along the frontage of the proposed lots. Lot access to Poole Road will be via two common entrances. Notes will be required on the final plat indicating that the lot owners shall be responsible for maintaining the common entrances. The common entrances must be constructed prior to lot recordation in accordance with §1-16-109(D)(8). Lot access will meet the Subdivision Regulation requirements.

Sight distance from the proposed driveway locations exceeds the minimum requirements.

4. **Lot Size and Shape. Panhandle Lots §1-16-219 (C)(2):** *Panhandle lots may be approved by modification of the Planning Commission in major subdivisions only when it is determined by the Commission that "excellence of design" will be achieved or that such lots are inaccessible to the road due to odd shape and/or topographical constraints. In each case, the Planning Commission will determine "excellence of design" based on the spatial relationship of the panhandle lot to other lots and the public road. Only physical design criteria such as odd shape and road inaccessibility, topography, existing utilities, proposed and existing well and septic constraints (Health Department criteria) and natural or man-made features shall be used by the Planning Commission in granting modifications for panhandle lots in major subdivisions.*

No panhandles are proposed.

7. **Water and Sewer Facilities. Public Facilities §1-16-12 (C):** *The proposed subdivision shall be disapproved unless each building lot has been approved for individual and/or community sewerage and water facilities by the Health Department.*

The property has a water and sewer classification of No Planned Service and must utilize private wells and septic systems. The percolation tests will be performed after the approval of this concept plan. Wells must be drilled prior to lot recordation.

Subdivision Regulation Requirements Findings/Conclusions: The project will meet all Subdivision Regulation requirements once all agency comments and conditions are met.

B. OTHER APPLICABLE REGULATIONS

1. **Stormwater Management – Chapter 1-15.2:** Stormwater management will be provided in accordance with the Maryland SWM Act of 2007. Stormwater management will be addressed

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with future plan submittals.

2. **APFO – Chapter 1-20:** This subdivision is exempt from meeting APFO requirements since it is a minor subdivision.
3. **Forest Resource Ordinance – Chapter 1-21:** The Applicants have applied for an exemption from FRO; the lots being created for the owners in accordance with the signed Declaration of Intent. The exemptions have been approved.

Summary of Agency Comments

| Other Agency or Ordinance Requirements | Comment |
|---|---|
| Development Review Engineering (DRE): | Conditional Approval. |
| Development Review Planning: | Hold. Must meet all agency and FcPc comments and conditions. |
| State Highway Administration (SHA): | N/A |
| Div. of Utilities and Solid Waste Mngt. (DUSWM): | N/A |
| Health Dept. | Hold. Percolation testing and well drilling required prior to lot recordation. Existing septic and well on remainder must be evaluated. |
| Office of Life Safety | N/A |
| DPDR Traffic Engineering | Approved. |
| Historic Preservation | N/A |

RECOMMENDATION

If the Planning Commission finds that the proposed subdivision meets the Ag Cluster provisions of the Zoning Ordinance, then Staff has no objection to the conditional approval of the Concept Plan.

Based upon the findings and conclusions as presented in the staff report the application meets or will meet all applicable Subdivision, Zoning, APFO, and FRO requirements if the FcPc finds that the development meets the requirements of the Ag Cluster provisions. Should the FcPc grant approval of this application (M-2895, AP 14683), Staff recommends that the following items be added as conditions to the approval:

1. The Applicant shall comply with all Staff and agency comments through the completion of the plan.
2. Concept Plan approval shall become null and void at the end of one (1) year from the date of FcPc approval unless a preliminary plan or combined preliminary/final plat is submitted for approval within this one year approval period.
3. The common entrances must be constructed prior to lot recordation in accordance with §1-16-109(D)(8).
4. A preliminary MALPF easement release must be approved by the state prior to lot recordation. A Final MALPF release must be approved by the state at the time of building permit application. In the event a building permit is not applied for within 3 years of lot recordation, the state may revoke the preliminary release approval.

PLANNING COMMISSION ACTION

MOTION TO APPROVE

I move that the Planning Commission **APPROVE M-2895 (AP 14683) with conditions** as listed in the staff report for the proposed Conservation Hill, Section 2, Lots 202-204 Agricultural Cluster concept plan, based on the findings and conclusions of the staff report and the testimony, exhibits, and documentary evidence produced at the public meeting.